

CITY OF BENICIA

ORDINANCE NO. 07-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING A NEW CHAPTER 1.36 (VOLUNTARY CODE OF FAIR CAMPAIGN PRACTICES) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Chapter 1.36 (Voluntary Code of Fair Campaign Practices) of Chapter 1 (of Title 1 (General Provisions) of the Benicia Municipal Code is added to read as follows:

Chapter 1.36

**VOLUNTARY CODE OF FAIR CAMPAIGN
PRACTICES**

- 1.36.010 Findings.
- 1.36.020 Purpose.
- 1.36.030 Qualifications for Compliance.

1.36.010 Findings. The City Council finds as follows:

A. There are basic principles of honesty, fairness, responsibility and respect to which every candidate for public office should adhere in order to be worthy of the public office that that candidate seeks.

B. Campaign communications should present only information that is fair, relevant and truthful to the voters for their consideration.

C. Candidates who fall short of adhering to such principles alienate the public from the electoral process and erode the public's trust and confidence in the offices that those candidates seek.

D. Electoral campaigns are subject to unacceptable levels of negativism attack advertising and other practices that demean representative democracy and undermine elected officials' ability to serve in the public interest.

E. Negative, attack-oriented campaigns are a major factor in the growing cynicism, alienation and non-participation among American voters, striking at the heart of the American system of government.

F. Candidates have a responsibility to conduct civil, issue-oriented debates with fellow candidates and provide opponents with a meaningful

opportunity to respond to any claims concerning their positions or qualifications to hold office.

G. Candidates for public office should have the ability to conduct clean and ethical campaigns.

1.36.020 Purpose. The City Council enacts this chapter to accomplish the following purposes:

- A. To promote the principles of honesty, fairness, responsibility and respect in campaigning for public office.
- B. To promote campaign communications to the public that is fair, relevant and truthful.
- C. To induce candidates to adhere to principles which enhance the electoral process and build the public's trust and confidence.
- D. To eliminate unacceptable levels of negativism, attack advertising and other practices that demean representative democracy and undermine an elected official's ability to serve the public interest.
- E. To promote responsible civil conduct and issue orientated debates.
- F. To promote candidates for public office to conduct clean and ethical campaigns.

1.36.030 Qualification for Compliance. A candidate (or controlled committees of such candidates running for office or a committee formed for the purpose of a recall) qualifies as a participating candidate for an election campaign period if the following requirements are met:

- A. The candidate voluntarily endorses, subscribes to, and solemnly pledges to conduct his or her campaign in accordance with the current version of the BENICIA CODE OF FAIR CAMPAIGN PRACTICES.
- B. The candidate will immediately and publicly repudiate those who take actions that either help a candidate's candidacy or hurt an opponent's candidacy, which are inconsistent with the BENICIA CODE OF FAIR CAMPAIGN PRACTICES.
- C. At the time an individual files his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the elections official shall give the individual a blank form of the BENICIA CODE OF FAIR CAMPAIGN PRACTICES and a copy of this Resolution. The elections official shall inform each candidate for public office that subscription to the code is voluntary.
- D. If the candidate agrees to voluntarily endorse, subscribe to, and solemnly pledge to conduct their campaign in accordance with the current version of the BENICIA CODE OF FAIR CAMPAIGN PRACTICES:
 - 1. The cost for setup and printing of each Candidate's Statement will be borne by the City, and
 - 2. The cost of printing the Statement of Qualifications in English and inspection costs to determine the accuracy and legal form of the nomination papers shall be borne by the City.

E. Candidates for public office who do not voluntarily endorse, subscribe to, and solemnly pledge to conduct their campaign in accordance with the current version of the BENICIA CODE OF FAIR CAMPAIGN PRACTICES will be responsible for any and all cost for the setup and printing of each Candidate's Statement and the printing the Statement of Qualifications in English and inspection costs to determine the accuracy and legal form of the nomination papers.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.



VOLUNTARY CODE OF FAIR CAMPAIGN PRACTICES

The City Council of the City of Benicia declares that the purpose of this pledge is to encourage every candidate for City office and committees related to campaigns for City candidates to subscribe to the City Voluntary Code of Fair Campaign Practices.

It is the intent of the City Council that every candidate or committee for City office who participates in a City candidate and subscribes to the City Voluntary Code of Fair Campaign Practices will follow the basic principles of honesty, fairness, responsibility and respect to which every candidate has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice, and the will of the people may be fully and clearly expressed on the issues.

The purpose in creating the City Voluntary Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to discuss issues instead of untruths or distortions.

This pledge form may be returned to the:

**City Clerk's Office
250 East L Street
Benicia, CA 94510**

All completed pledge forms submitted to the City Clerk will be maintained on file for public inspection for a period of one year.

[SEE ATTACHED FOR PLEDGE]

BENICIA CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play which every candidate for public office in the City of Benicia has a moral obligation to observe and uphold, in order that, after vigorously contested, but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

(1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents which merit such criticism and without false or misleading statements.

(2) I SHALL NOT USE OR PERMIT the use of character defamation, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life, including whispering campaigns involving such statements.

(3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis.

(4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections, or which hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.

(5) I SHALL NOT coerce election help or campaign contributions for myself or any other candidate from my employees.

(6) I SHALL IMMEDIATELY AND PUBLICALLY REPUDIATE in writing or in the media support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics which violate this code. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing ethics.

(7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

(8) I SHALL ENSURE that all mailings are sent by the Friday before election Tuesday.

I, the undersigned candidate for election to public office in the City of Benicia or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

_____ **Date** _____ **Signature**

On the motion of Vice Mayor **Schwartzman**, seconded by Council Member **Whitney**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 19th day of December, 2006, and adopted at a regular meeting of the Council held on the 2nd day of January, 2007, by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney and Mayor Messina

Noes: None

Absent: None

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 07-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING A NEW CHAPTER 1.40 (CAMPAIGN DISCLOSURE IN CANDIDATE ELECTIONS) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Title 1 (General Provisions) of the Benicia Municipal Code is amended by adding a new Chapter 1.40 (Campaign Disclosure in Candidate Elections) to read as follows:

Chapter 1.40

CAMPAIGN DISCLOSURE IN CANDIDATE ELECTIONS

Sections:

- 1.40.010 Purpose.
- 1.40.020 Definitions.
- 1.40.030 Additional Campaign Statements.
- 1.40.040 Independent Expenditure Disclosure.
- 1.40.050 Access to Records.

1.40.010 Purpose. This chapter is intended to supplement the Political Reform Act of 1974.

1.40.020 Definitions. The definitions set for the in the Political Reform Act of 1974 as amended (Government Code Sections 82000 through 82055) shall govern the interpretation of this chapter, unless otherwise specified herein.

1.40.030 Additional Campaign Statements.

A. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with government code section 8100, as amended, candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file an additional pre-election statement by 4:30 p.m. on the Wednesday immediately preceding the election. This statement shall have a closing date of the prior Sunday and shall cover activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including that Sunday.

B. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with government code section 8100, as amended,

candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file a post-election statement by 4:30 p.m. on the Friday immediately following the election. This statement shall include all activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including Election Day.

1.40.040 **Independent Expenditure Disclosure.** Any person or committee making independent expenditures in a calendar year, supporting or opposing a candidate for mayor or city council, regardless of where or when it files its campaign reports under the Political Reform Act, the Federal Election Campaign Act, or any similar law, shall file a California Supplements Pre-Election Campaign Statement (Form 465) with the city clerk at the same time as the mayoral and city council candidates disclosing the information required by that statement.

1.40.050 **Access to Records.** All campaign reports required to be filed by any candidate or committee with the city clerk shall be scanned and store in .pdf format. The reports shall be posted on the city's website no later than 2 working days after filing.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The city council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of **Mayor Messina**, seconded by Council Member **Whitney**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 19th day of June, 2007, and adopted at a regular meeting of the Council held on the 17th day of July, 2007, by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney and Mayor Messina

Noes: None

Absent: None

_____
Steve Messina, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 09-08

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING
CHAPTER 1.40 (CAMPAIGN FINANCING OF CANDIDATE ELECTIONS) OF TITLE 1
(GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES
ORDAIN as follows:**

Section 1.

Chapter 1.40 (Campaign Financing of Candidate Elections) of Title 1 (General Provisions) of the Benicia Municipal Code is amended to read as follows:

Chapter 1.40

**DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES
IN CANDIDATE AND BALLOT MEASURE ELECTIONS**

1.40.010 Purpose. This chapter is intended to supplement the Political Reform Act of 1974.

1.40.020 Definitions. The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Sections 82000 through 82055) shall govern the interpretation of this chapter, unless otherwise specified herein.

1.40.030 Additional campaign statements.

A. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 8100, as amended, candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file an additional pre-election statement by 4:30 p.m. on the Wednesday immediately preceding the election. This statement shall have a closing date of the prior Sunday and shall cover activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including that Sunday.

B. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 8100, as amended, candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file a post-election statement by 4:30 p.m. on the Friday immediately following the election. This statement shall include all activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including Election Day.

1.40.040 Supplemental independent expenditure reports in candidate elections. Any person or committee making independent expenditures totaling \$1,000 or more in a calendar year, supporting or opposing a candidate for mayor or city council, regardless of where or when it files its campaign reports under the Political Reform Act, the Federal Election Campaign Act, or any similar law, shall file a California Supplemental Independent Expenditure Report (Form 465) with the city clerk at the same time as the mayoral and city council candidates, covering the same period and disclosing the information required by that statement.

1.40.041 Independent expenditures in 45 days preceding election.

A. Disclosure of Expenditures. Any person, including any committee, that makes or incurs independent expenditures of \$1,000 or more in support of or in opposition to any city measure or candidate for mayor or city council, in the 45 days before an election in which the measure or candidate appears on the ballot, shall notify the city clerk within 24 hours by personal delivery, fax or email each time one or more expenditures, which meet this threshold, are made.

B. Contents of Notice.

1. The notice shall specify:
 - a. Each candidate or measure supported or opposed by the expenditure;
 - b. The amount spent to support or oppose each candidate or measure;
 - c. Whether the candidate or measure was supported or opposed;
 - d. The date and amount of each expenditure;
 - e. A description of the type of communication for which the expenditure was made;
 - f. The name and address of the person making the expenditure; and
 - g. The name and address of the payee.
2. The notice shall include a statement that the expenditure was not made at the behest of any candidate or ballot measure proponent who benefited from the expenditure.

3. The notice shall be signed under penalty of perjury by both a responsible officer and the treasurer of the committee making the expenditure.

C. Notification to Candidates of Expenditures. The city clerk will notify all candidates by fax or e-mail in the affected race within one business day after receiving the notice of independent expenditures of \$1,000 or more. The notification will indicate the candidate who was supported or opposed by the expenditure and include a copy of the communication provided by the person or group making the expenditure.

D. Exemption for Regularly Published Newsletters. For purposes of the notification required by subsection A, payments by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication, shall not be required to be reported.

1.40.042 Disclaimer requirements for campaign communications funded by independent expenditures.

A. Campaign communications funded by an independent expenditure supporting or opposing city candidates or city measures shall include the phrase "Not authorized by a candidate," and shall also include the name of any contributor of \$2,500 or more made in the past six months to a committee funding the independent expenditure, in the phrase "Major Funding Provided By [Name of Contributor(s)]." Expenditures of \$2,500 or more that are earmarked for any other candidate or ballot measure outside of the City of Benicia need not be disclosed.

B. The disclosures required by this section shall be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice, as specified below:

1. For printed campaign communications that measure no more than 24 inches by 36 inches, all disclosure statements required by this section shall be printed using a typeface that is easily legible to an average reader or viewer, but is not less than 10-point type in contrasting color to the background on which it appears. For printed campaign communications larger than this size in area, all disclosure statements shall constitute at least five percent of the height of the material and shall be printed in contrasting color.

2. For video broadcasts including television, satellite and cable campaign communications, the information shall be both written and spoken either at the beginning or at the end of the communication, except that if the disclosure statement is written for at least five seconds of a broadcast of thirty seconds or less or ten seconds of a sixty second broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be of sufficient size to be readily legible to an average viewer and air for not less than four seconds.

3. For audio, telephone call or radio advertisement campaign communications, the disclosures shall be spoken in a clearly audible manner at the same speed and volume as the rest of the telephone call or radio advertisement at the beginning or end of the communication and shall last at least three seconds.

C. For purposes of this section, "campaign communication" means any of the following items:

1. More than 200 substantially similar pieces of campaign literature distributed within a calendar month, including but not limited to mailers, flyers, faxes, pamphlets, door hangers, e-mails, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger;

2. Posters, yard or street signs, billboards, supergraphic signs and similar items;

3. Television, cable, satellite and radio broadcasts;

4. Newspaper, magazine, internet website banners and similar advertisements;

5. 200 or more substantially similar live or recorded telephone calls made within a calendar month.

D. For purposes of this section, "campaign communication" does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, skywriting or

other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members other than a communication from a political party to its members.

E. The disclaimer on campaign communications must be updated when a new person qualifies as a disclosable contributor or when the committee's name changes. Broadcast advertisement disclosures must be amended within five calendar days after a new person qualifies as a disclosable contributor or a committee's name changes.

A committee shall be deemed to have complied with this section if the amended advertisement is mailed, containing a request that the advertisement immediately be replaced, to all affected broadcast stations by overnight mail no later than the fifth day. For printed campaign communications and other material, disclosure information must be amended to reflect accurate disclosure information every time an order to reproduce the communication is placed.

1.40.050 Access to records. All campaign reports required to be filed by any candidate or committee with the city clerk shall be scanned and stored in .pdf format. The reports shall be posted on the city's website no later than two working days after filing.

1.40.060 Ballot measure finance disclosure. Unless otherwise indicated, if a recall, referendum or initiative petition impacting city elected officials or city law is filed, the proponent shall be subject to the same provisions of this chapter as are applicable to candidates for elective city office, and any committee supporting or opposing the measure shall be subject to the same disclosure provisions as are applicable to committees making contributions or expenditures in connection with city candidate elections.

1.40.070 Contributor occupation and employer. No contribution shall be deposited into a campaign checking account of a candidate for mayor or city council unless the name, address, occupation and employer of the contributor are on file in the records of the recipient of the contribution.

1.40.080 Campaign literature – filing with city clerk. An independent expenditure committee, that makes an expenditure for 200 or more recorded telephone calls or any other forms of electronic or facsimile transmission of substantially similar content, or that makes an expenditure of \$1,000 or more for a radio or television advertisement, or that mails or otherwise distributes more than 200 substantially similar pieces of campaign literature in support of or opposition to any candidate for mayor or city council, shall give a copy of the literature or script used for each communication to the city clerk within 24 hours of the first time the mailings, calls, transmissions, or advertisements are made or aired.

1.40.090 **Recordkeeping.** Candidates for mayor and city council, and committee treasurers, shall maintain such detailed accounts, records, invoices and receipts as are necessary to prepare campaign statements and to comply with the Political Reform Act, the regulations of the Fair Political Practices Commission and this chapter.

1.40.100 **Disclaimers on campaign communications.** Any committee who mails or otherwise distributes more than 200 substantially similar pieces of campaign literature shall print, display or incorporate the following words anywhere within the communication: "Paid for by" immediately followed by the name, address and city of that committee. If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall also be included. If an acronym is used to specify a committee name, the full name of any sponsoring organization of the committee shall be included in the campaign communication disclaimer required by this section.

1.40.110 **Duties of city clerk and city attorney.** The city clerk shall administer the provisions of this section. In addition to other duties required under this chapter, the clerk shall:

A. Report apparent violations of this section and applicable state law to the city attorney.

B. Conduct audits of reports and statements filed by candidates and committees supporting or opposing candidates for mayor and city council, as well as proponents and committees supporting or opposing city ballot measures. The city clerk may employ or contract with auditors when necessary to audit reports filed under this chapter.

C. The city attorney and city clerk may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items necessary to the audit and investigation of candidates and committees.

1.40.120 **Enforcement.**

A. **Criminal Enforcement.** Any person who knowingly or willfully violates any provisions of this section is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this section, or who aids and abets any other person in the violation of any provision of this section, shall be liable under the provisions of this section. Prosecution for violation of any provision of this chapter must be commenced within two years after the date on which the violation occurred.

B. **Civil Enforcement.**

1. Any person who intentionally or negligently violates any provision of this section shall be liable in a civil action brought by the city attorney. Where no specific civil penalty is provided, a person may be liable for an amount up to two thousand dollars (\$2,000) for each violation.

2. Any person who intentionally or negligently makes or receives a contribution, or makes an expenditure, in violation of any provision of this section shall

be liable in a civil action brought by the city attorney for an amount up to three times the amount of the unlawful contribution or expenditure.

3. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

4. In determining the amount of liability under this subsection, the court may take into account any mitigating factors and any aggravating factors.

5. No civil action alleging a violation of this chapter shall commence more than two years after the date of the election for which the funds at issue were contributed or expended.

1.40.140 **Verification.** All notices, reports and statements filed under this chapter shall be signed and verified by the filer under penalty of perjury. The person signing shall read, know and understand the contents of all such documents.

1.40.150 **Injunction.** The city attorney on behalf of the people of the City of Benicia may sue for injunctive relief to enjoin violations or threatened violations or to compel compliance with the provisions of this chapter.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member **Campbell**, seconded by Council Member **Schwartzman**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 17th day of March, 2009, and adopted at a regular meeting of the Council held on the 7th day of April, 2009 by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson

Noes: None

Absent: None

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 09-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING A NEW CHAPTER 1.42 (CONTRIBUTION AND VOLUNTARY SPENDING LIMITS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Title 1 (General Provisions) of the Benicia Municipal Code is amended by adding Chapter 1.42 (Contribution and Voluntary Spending Limits) to read as follows:

Chapter 1.42

CONTRIBUTION AND VOLUNTARY SPENDING LIMITS

- 1.42.010 Purpose.
- 1.42.020 Definitions.
- 1.42.030 Campaign contribution limitations.
- 1.42.040 Loans.
- 1.42.050 Use of personal funds.
- 1.42.060 Voluntary expenditure limits.
- 1.42.070 Lifting of voluntary expenditure limits.
- 1.42.080 Notification by non-participating candidate regarding expenditure ceiling.
- 1.42.090 Candidate acceptance or rejection of the voluntary expenditure limit.
- 1.42.100 Adjustment of limits for inflation.
- 1.42.110 Candidate debate.
- 1.42.120 Enforcement.

1.42.010 Purpose. This chapter is intended to supplement the Political Reform Act of 1974.

1.42.020 Definitions. The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Sections 82000 through 82055) shall govern the interpretation of this chapter, unless otherwise specified herein.

"Debate" means a discussion between two or more candidates who have qualified to appear on a ballot for an elective city office that is moderated by an independent third party and that is attended by the public.

"Election" means any candidate election held for elective city office in the city of Benicia, including a general municipal election, a run-off election, a special election and a recall election.

"Elective city office" means the offices of mayor, city council member, city clerk and city treasurer.

"Elective city officer" means any individual who is a mayor, city council member, city clerk or city treasurer, whether appointed or elected.

"Qualified campaign expenditure" means:

(1) Any expenditure made by a candidate for city council or mayor, or by a committee controlled by such a candidate, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of a candidate for city council or mayor.

(2) A non-monetary contribution provided at the behest of or with the approval of the candidate or committee controlled by the candidate.

1.42.030 **Campaign contribution limitations.** No person shall contribute a total of more than \$250 to any candidate for city council, mayor, city clerk or city treasurer and to his or her controlled committee for a single election. A candidate for city council, mayor, city clerk or city treasurer, and his or her controlled committee together shall not accept any contribution or contributions totaling more than \$250 from any person for a single election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign from his or her personal funds.

1.42.040 **Loans.** No person shall make, and no person or candidate shall solicit or accept any loan for a period of more than 30 days in connection with an election for city council or mayor. Loans to a candidate or to a candidate's controlled committees shall be counted against the contribution limitations applicable to the candidate. A candidate is not prohibited from obtaining a personal loan of any amount from a licensed financial lending institution in the regular course of business, unless the loan is made for political purposes. This section shall not limit the amount or duration of loans from the candidate to his or her own campaign.

1.42.050 **Use of personal funds.** No candidate shall expend more than \$5,000 in personal funds, whether contributed or loaned, in connection with his or her campaign for elected city office until the following conditions have been met.

A. All personal funds to be expended by the candidate shall first be deposited in the candidate's campaign contribution checking account at least 30 days before the election.

B. The candidate shall mail or personally deliver a letter noting the depositing of personal funds exceeding \$5,000 and the amount of the deposit by guaranteed overnight mail to the city clerk within 48 hours of the deposit date. The city clerk shall notify all other candidates running for that office of the deposit and amount within 24 hours. The hour limits exclude weekends and city holidays.

1.42.060 **Voluntary expenditure limits.**

A. Notwithstanding any other provision of this chapter, any candidate for city council or mayor who files a statement of acceptance of the voluntary expenditure limits specified in this section, shall be allowed to collect contributions or loans in twice the amounts specified in Sections 142.030.

B. The maximum qualified campaign expenditures for a candidate for mayor or city council shall be \$28,000.

1.42.070 **Lifting of voluntary expenditure limits.** If a candidate for mayor or city council declines to accept the voluntary expenditure limit and makes qualified campaign expenditures in excess of the expenditure limit, or if a committee makes independent expenditures in the aggregate of more than the same limit in support of or in opposition to any such candidate, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office.

1.42.080 **Notification by non-participating candidate regarding expenditure ceiling.** A candidate for mayor or city council who decides not to accept the voluntary expenditure limits shall notify the city clerk by telephone and by confirming telegram, fax or e-mail on the day the candidate raises more than 100% of the applicable expenditure ceiling and again on the day the candidate spends more than 100% of the applicable expenditure limit. The city clerk shall notify all other candidates for the same office by telephone, fax or e-mail within one business day.

1.42.090 **Candidate acceptance or rejection of the voluntary expenditure limit.** At the time of filing his or her declaration of intention, each candidate for city council or mayor shall also file a letter with the city clerk indicating acceptance or rejection of the applicable voluntary expenditure limit.

1.42.100 **Adjustment of limits for inflation.** Beginning January 1, 2011, the contribution and voluntary expenditure limits established by this chapter shall be adjusted biennially by a percentage equal to the change in the San Francisco Bay Area All Urban Consumer Price Index (CPI) for the previous two years. The amounts shall be rounded to the nearest ten dollars. The city clerk shall calculate such increase and post the new limits in a conspicuous place in the city clerk's office.

1.42.110 **Candidate debate.** The open government commission shall sponsor a debate on the Saturday before the general election for all candidates for city council or mayor who meet the criteria of this section. The chair of the commission shall moderate the debate or shall select another member of the commission to serve as moderator. The questions shall be selected from among questions submitted by residents of, or nonprofit organizations located in, the city of Benicia.

1.42.120 **Enforcement.**
A. Criminal enforcement. Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be liable under the provisions of this section. Prosecution for violation of any provision of this chapter must be commenced within two years after the date on which the violation occurred.

B. Civil enforcement.

1. Any person who intentionally or negligently violates any provision of this chapter shall be liable in a civil action brought by the city attorney. Where no specific civil penalty is provided, a person may be liable for an amount up to \$2,000 for each violation.
2. Any person who intentionally or negligently makes or receives a contribution, or makes an expenditure, in violation of any provision of this chapter shall be liable in a civil action brought by the city attorney for an amount up to three times the amount of the unlawful contribution or expenditure.
3. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
4. In determining the amount of liability under this subsection, the court may take into account any mitigating factors and any aggravating factors.
5. No civil action alleging a violation of this chapter shall commence more than two years after the date of the election for which the funds at issue were contributed or expended.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member **Campbell**, seconded by Council Member **Schwartzman**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 2nd day of June, 2009, and adopted at a regular meeting of the Council held on the 16th day of June, 2009 by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson

Noes: None

Absent: None

Elizabeth Patterson, Mayor

ATTEST.

Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 11-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 1.42.110 (CANDIDATE DEBATE) OF CHAPTER 1.42 (CONTRIBUTION AND VOLUNTARY SPENDING LIMITS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Section 1.42.110 (Candidate debate) of the Benicia Municipal Code is hereby repealed and a new Section 1.42.110 (Candidate forum) is hereby added to read as follows:

1.42.110 Candidate forum.

The open government commission shall sponsor a forum on the Friday, Saturday or Sunday before the general election for all candidates for city council or mayor who meet the criteria of this section. Although Saturday is strongly preferred, Friday or Sunday may be selected to prevent a conflict with other events of general interest occurring in, or of interest to the voters of the City of Benicia. The commission shall be responsible for selecting the date of the forum after discussion and consideration of potential conflicts. The chair of the commission shall moderate the forum or shall select another member of the commission to serve as moderator. The questions shall relate to last minute "hit pieces," and will allow candidates the opportunity to respond to inflammatory statements and misinformation. All questions asked shall be selected from questions submitted by residents of, and nonprofit organizations and business entities located in, the city of Benicia. The forum may be canceled in its entirety by unanimous consent of the candidates, delivered to the chair of the commission at least 24 hours before the scheduled forum date.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

* * * * *

On motion of Council Member **Schwartzman**, seconded by Council Member **Hughes**, the foregoing Ordinance was introduced at a regular meeting of the City Council on the 21st day of June, 2011, and adopted at a regular meeting of the Council on the 5th day of July, 2011, by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson

Noes: None

Absent: None

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk